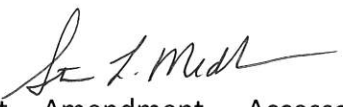




CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: October 5, 2015

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Steven L. Medlin, AICP, Planning Director 
Subject: *Unified Development Ordinance* Text Amendment, Accessory Structures-Home Occupations (TC1500005)

Summary. Text amendment TC1500005 is a privately-initiated text amendment to Sec. 5.4, Accessory Uses and Structures, of the *Unified Development Ordinance* (UDO) to allow accessory structures to be located to the side of primary structures on property zoned Residential Suburban-20 (RS-20) and at least two acres in size, and to explicitly allow accessory structures to be used for home occupations that do not qualify as rural home occupations.

Recommendation. Staff recommends approval of the attached Ordinance to amend Article 5, Use Regulations, of the *Unified Development Ordinance* (TC1500005); and recommends approval of a consistency statement declaring the request consistent with the Durham *Comprehensive Plan* and that the request is reasonable and in the public interest. Information supporting these recommendations is found within this memo, attached documents, and any information provided through the public hearing.

Background. The text amendment application is a privately-initiated amendment submitted by Parker & Ellis PLLC on behalf of Mr. Travis Felts. The JCCPC provided comment and direction to staff at its June 3, 2015, meeting, indicating support for the request with certain modifications to the applicant's proposal. The JCCPC was also provided an additional opportunity for comment at its August 5th meeting, and no additional comments were provided.

The Planning Commission recommended approval, 14-0, of the text amendment on August 11, 2015. The Planning Commission determined that the Ordinance request is consistent with the adopted *Comprehensive Plan* and that the request is reasonable and in the public interest based on comments received at the public hearing and the information in the staff report.

The Durham County Board of Commissioners will consider this amendment at its September 28, 2015, meeting.

Issues. The amendment request would modify Sec. 5.4, Accessory Uses and Structures. The draft ordinance (Attachment B) is consistent with the application with modifications discussed by the JCCPC. The particular modifications included allowing accessory structures on property of two acres or more and zoned RS-20 to be located to the side of the primary structure, and not in front of the primary structure as originally requested. This RS-20 allowance will also be limited to the Suburban and Rural Tiers. In short, the amendment does the following:

1. Amends paragraph 5.4.1, Accessory Structures, to allow such structures to be to the side of primary structures on property zoned RS-20. To qualify, the structure cannot be in a side yard, the lot must be at least two acres in size, and the lot must be in either the Suburban or Rural tiers.

Analysis: A similar, but slightly more expansive, provision currently applies to property zoned RR, where accessory structures would be allowed in front of the primary structure as long as it remained out of the street yard. Although RS-20 zoning has many of the same suburban development characteristics as other suburban residential zoning districts, there are properties zoned RS-20 that maintain a more rural development pattern. Staff believes the request reasonable because it maintains the lot size minimum requirement and the restriction on not locating the structure within side yards. As noted above, the JCCPC also determined this to be reasonable.

2. Amends paragraph 5.4.4, Home Occupations, to reorganize the existing standards and thus explicitly allow accessory structures to be used for home occupation purposes other than rural home occupations. No changes to the total area allowed for home occupations are proposed, and no changes to specific requirements associated with the accessory structure are proposed.

Analysis: The current regulations explicitly allow the use of accessory structures only for home occupations that qualify as "rural home occupations." Home occupations requirements for all other instances do not include these provisions, thus leaving the ability to use accessory structures in these circumstances ambiguous at best. Staff considers the proposed changes reasonable, since many home occupations would typically use an accessory structure, whether it be a home office or a craft studio, or simply for indoor storage purposes. As noted above, the JCCPC also determined this to be reasonable.

Consistency with the *Comprehensive Plan*; Reasonable and in the Public Interest.

Although the *Comprehensive Plan* does not specifically address accessory uses and structures, staff has determined that the proposed changes do not conflict with any provisions of the plan. The applicant has referenced and provided a detailed analysis

of goals, objectives, and policies that support the proposed changes. Staff agrees that, at a minimum, the following goals and objectives support the requested amendment.

Chapter 2, Land Use Element

Goal 2.3, Promote Sustainable Use of Land and Resources

Promote the sustainable use of land and resources to meet the needs of today without jeopardizing the ability to efficiently and effectively provide land and resources in the future.

Objective 2.3.4 Contextual Development

Develop standards for development that are appropriate to the context of the existing surrounding or desired development pattern.

Goal 2.4, Align Land Use and Transportation

Promote the integration of land use, transportation and infrastructure planning to efficiently conserve resources and support economic growth.

Chapter 4, Community Character and Design Element

Goal 4.1, Community Design Guidance

Provide guidance in the design and development of the community to ensure a visually appealing, functional, and sustainable built environment.

Goal 4.3, Contextual Design

Encourage development that is designed to be conscious of and sensitive to its surroundings. Contextual design considers the setting as much as the project itself, is applicable in a variety of areas and situations, and should guide any development.

Chapter 6, Economic Development Element

Goal 6.1, Economic Development

Increase citizen access to high quality jobs and reduce poverty while increasing Durham's tax base.

Objective 6.1.1. Balanced Economic Growth

Encourage new business location and existing business expansion that are compatible with Durham's land use plans and policies.

Based upon consistency with the *Comprehensive Plan* and the discussion of issues, above, staff has determined that the request is reasonable and in the public interest.

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Thomas J. Bonfield, City Manager

Unified Development Ordinance Text Amendment, Accessory Structures-Home Occupations
(TC1500005)

October 5, 2015

Attachments:

Attachment A: Application by Parker & Ellis PLLC

Attachment B: An Ordinance to Amend the Unified Development Ordinance
Regarding Accessory Structures and Home Occupations (TC1500005)

Attachment C: Statement of Consistency Pursuant to NCGS § 160A-383

Attachment D: Planning Commission Comments